

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL ESPINOSA,

Defendant.

)
)
)
)
)
)
)
)
)
)

Case No.: 2:16-cr-004-GMN-GWF

ORDER

Pending before the Court is Defendant Michael Espinosa's Appeal from an Order Denying Motion to Reopen and for Release Pretrial under 18 U.S.C. § 3145(b).¹ (ECF No. 19). The Government filed a Response (ECF No. 24), and Defendant filed a Reply (ECF No. 25).

On December 11, 2015, a Criminal Complaint was filed against Defendant for the offense of Bank Robbery, in violation of 18 U.S.C. § 2113(a). (ECF No. 1). Defendant had his Initial Appearance before Magistrate Judge Peggy A. Leen on January 6, 2016. (*See* ECF No. 9). At Defendant's Initial Appearance, the Government moved for detention and Defense Counsel conceded, with a request to reopen upon resolving Defendant's state court issues. (*Id.*). On January 12, 2016, Defendant was indicted by the Federal Grand Jury sitting in the District of Nevada on the Bank Robbery charge. (ECF No. 11). On January 20, 2016, Defendant was arraigned on the Indictment and pled not guilty. (ECF No 15). On February 2, 2016, Defendant filed an Emergency Motion to Reopen Detention Hearing based upon Urgent Medical Need. (ECF No. 17). On February 5, 2016, Judge Leen denied this motion stating that the "court conveyed [Defendant's medical] information to the U.S. Marshal Service ("USMS")" and the

¹ Pursuant to the Local Rules of Practice for the United States District Court for the District of Nevada, Defendant's motion should be entitled "Appeal from Magistrate Judge's Detention Order." LR IB 3-5.

1 USMS indicated that Defendant's "request will be processed through the USMS medical unit as
2 soon as it is received from the detention facility." (Order 2:1-6, ECF No. 18). On March 3,
3 2016, Defendant filed the instant Appeal from Magistrate Judge's Detention Order under 18
4 U.S.C. § 3145(b).

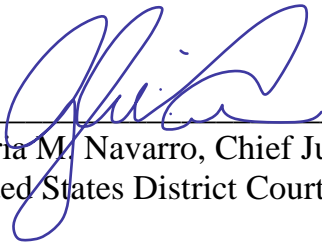
5 Defendant fractured his foot while running away from police officers during his arrest.
6 (Appeal from Magistrate Judge's Detention Order 2:19-3:5, ECF No. 19). Defendant contends
7 that he has not received adequate medical care for his injury. (*Id.* at 4:1-5). He argues that
8 pretrial release with conditions should be allowed because his inability to walk on his left foot
9 means "his risk of flight has been diminished." (*Id.* at 3:17).

10 Title 28, United States Code, Section 636 provides that a party's motion for a District
11 Judge to reconsider a Magistrate Judge's Order shall be served and filed within fourteen days of
12 the Magistrate Judge's Order. 28 U.S.C. § 636(b)(1). Here, Defendant filed his motion
13 appealing the Magistrate Judge's Detention Order almost a month after the Detention Order
14 was filed. Accordingly, the Court denies Defendant's Appeal from Magistrate Judge's
15 Detention Order as untimely.

16 This ruling does not foreclose Defendant's opportunity to file a motion to reopen the
17 detention hearing with the Magistrate Judge based on any new information. 18 U.S.C.
18 § 3142(f)(2) ("The [detention] hearing may be reopened . . . at any time before trial if the
19 judicial officer finds that information exists that was not known to the movant at the time of the
20 hearing and that has a material bearing on the issue [of detention]").

21 **IT IS HEREBY ORDERED** that Defendant Michael Espinosa's Appeal from
22 Magistrate Judge's Detention Order (ECF No. 19) is **DENIED**.

23 **DATED** this 20 day of April, 2016.

24
25 

Gloria M. Navarro, Chief Judge
United States District Court